

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1292-02
Bill No.: HB 462
Subject: Crimes and Punishment; Law Enforcement Officers and Agencies; Highway Patrol
Type: Original
Date: February 25, 2013

Bill Summary: This proposal changes the requirements for the state sex offender registry.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
Total Estimated Net Effect on General Revenue Fund	\$0	\$0	\$0

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
Criminal Records	(\$31,550)	(\$2,101)	(\$2,154)
Total Estimated Net Effect on <u>Other</u> State Funds	(\$31,550)	(\$2,101)	(\$2,154)

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 9 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
Total Estimated Net Effect on FTE	0	0	0

☐ Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).

☐ Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
Local Government	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Public Safety - Missouri Highway Patrol (MHP)** state they will require modifications to both the Missouri Sex Offender Registry and the Missouri Sex Offender Website to comply with HB 462. The following is a breakdown of these changes and the resulting cost and man-hours for the Patrol:

50 hours - Discovery and Design
180 hours - Database Modifications and Reporting
25 hours - Website Feed Modifications
25.5 hours - Testing
35 hours - Project Management

The Patrol estimates that approximately 315.50 ($50 + 180 + 25 + 25.5 + 35 = 315.50$) consultant hours will be required at a rate of \$100 per hour ($315.50 \times \$100 = \$31,550$). There will be an annual maintenance cost of approximately \$2,050 for the database modifications and reporting and the website feed modifications.

Additionally, the Patrol estimates that approximately 320 in-house development hours will be needed for sex offender website and registry modifications to include tier level on offender details page, online identifiers search, original and most recent registration date, status of offender's term of incarceration, probation or parole, and repeat offender status. The Patrol believes this impact can be absorbed.

Officials from the **Office of the State Public Defender (SPD)** state HB 462 does several things. It exempts certain offenders from the public notification requirements of the registry even though still required to register, allows certain offenders who petition the court to be exempt from having to register, expands the scope of the provisions allowing for removal from the registry, requires that registration be made a condition of probation for those who are required to register and are placed on probation, and creates a tiered classification system that effects registration requirements.

The relevant changes for MSPD is the fact that:

--Fewer persons will be on the registry and therefore subject to prosecution for failure to register (charge codes 589.400, 589.414, 589.425 and 589.426). This would be a positive fiscal impact for us.

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ASSUMPTION (continued)

In FY2012 for those four charge codes, we were assigned 314 felonies and 5 misdemeanors. If, for example, you were to assume that as a result of the narrowing of the reach of the registry we have 10% fewer cases, then this would amount to 31 fewer felonies and 1 fewer misdemeanor, resulting in a reduction of 459 case hours $((31 \times 14 \text{ hours}) + (1 \times 5 \text{ hours}))$. If we use 1,849 hours available per attorney per year, with no reduction for management for travel time, then we would need one quarter of an attorney less than the 71 requested in our FY2014 Legislative Budget.

On the other hand, requiring registration as a condition of probation will naturally increase our number of probation violation cases. Out of our 314 felonies and 5 misdemeanors, how many of these were on probation at the time of failing to register as opposed to having served their probation or having been released from a prison sentence? Assuming that 10% of these 319 clients will end up on probation, with a condition of probation they wouldn't otherwise have had, and violate that probation, that would be 32 added probation violations, or 160 case hours $(32 \times 5 \text{ hours})$. If we use 1,849 hours available per attorney per year, with no reduction for management or travel time, we would need an additional 0.1 attorneys $(160 / 1,849)$ and associated support staff.

The net result of employing those assumptions would therefore result in the need for 0.2 fewer attorneys $(0.3 - 0.1)$ and associated support staff.

Therefore, no significant fiscal impact on the State Public Defender.

Officials from the **Department of Corrections (DOC)** state this bill may require additional staff time due to the requirement that offenders being released on Director's Discharge must register and complete their portion of initial registration seven days prior to release. Division of Adult Institutions (DAI) staff already perform these duties, but policies and manuals will need to be updated to reflect these changes, as well it will require records officers to update previously exempted incarcerated offender records to registration requirements.

In summary, DOC staff costs may increase, but it is assumed the impact would be \$0 or a minimal amount that could be absorbed within existing resources.

Officials from the **Department of Mental Health, Department of Social Services, and the Office of the State Courts Administrator** each assume the proposal would not fiscally impact their respective agencies.

ASSUMPTION (continued)

Officials from the **Boone County Sheriff's Office** state there will be costs incurred for legal update training for two of our detectives responsible for administering our sex offender registry. Additional costs will be incurred for an increased caseload and time management if we become responsible for registering juvenile sex offenders as page 6 of the legislation indicates. Also, registration fees that are currently allowed to be collected by statute are unenforceable fees and therefore are not collected.

Officials from the Cole County Sheriff's Department, Jackson County Sheriff's Department, and the Platte County Sheriff's Department did not respond to our request for fiscal impact.

<u>FISCAL IMPACT - State Government</u>	FY 2014 (10 Mo.)	FY 2015	FY 2016
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CRIMINAL RECORDS

<u>Costs</u> - Missouri Highway Patrol			
System modifications / annual maintenance	<u>(\$31,550)</u>	<u>(\$2,101)</u>	<u>(\$2,154)</u>

ESTIMATED NET EFFECT TO THE CRIMINAL RECORDS FUND	<u>(\$31,550)</u>	<u>(\$2,101)</u>	<u>(\$2,154)</u>
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<u>FISCAL IMPACT - Local Government</u>	FY 2014 (10 Mo.)	FY 2015	FY 2016
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LOCAL POLITICAL SUBDIVISIONS

<u>Costs</u> - Police Departments and/or Sheriffs Departments - training and other modifications to adhere to changes	\$0 or <u>(Unknown)</u>	\$0 or <u>(Unknown)</u>	\$0 or <u>(Unknown)</u>
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ESTIMATED NET EFFECT TO LOCAL POLITICAL SUBDIVISIONS	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>
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FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

This proposal modifies the state sex offender registry and its requirements. In its main provisions, the bill:

(1) Requires the State Highway Patrol to maintain a website with registered sexual offender search capability and allows a sheriff to maintain a separate website, if desired. The bill adds to the information that must be provided by the State Highway Patrol or that may be provided by a sheriff to the public on the website, including the tier level assigned to the offender; the original and most recent registration date; the status of the offender's term of incarceration, probation, or parole; and whether the offender is a repeat sexual offender (Sections 43.650 and 589.402, RSMo);

(2) Exempts offenders who commit the crimes of felonious restraint or kidnaping of a nonsexual nature when the victim is less than 18 years of age from the public notification requirements if there is no other offense for which he or she is required to register, he or she is not a repeat sexual offender, and no sexual conduct or attempted sexual conduct occurred during the offense (Sections 43.650 and 589.402);

(3) Exempts witnesses afforded federal protection and juveniles 14 years of age or older at the time of the offense who have been adjudicated for an offense, or any attempt, which is equal to or more severe than aggravated sexual abuse under 18 U.S.C. Section 2241, from the public notification requirements (Sections 43.650 and 589.402);

(4) Specifies that an offender must, within three business days of adjudication; release from incarceration, the Division of Youth Services within the Department of Social Services, or the Department of Mental Health, or placement upon probation; register with the sheriff in the county in which he or she resides. The sheriff must forward a copy of the registration form to any city, town, village, or campus law enforcement agency located within the county (Section 589.400.2);

(5) Specifies that the registration requirements are lifetime requirements unless all of the offenses are reversed, vacated, or set aside; the registrant is pardoned of the offenses and the pardon explicitly states the offender is relieved of his or her duty to register; the registrant is no longer required to register under these provisions; or the court orders the removal or exemption of the offender from the registry under these provisions (Section 589.400.3);

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FISCAL DESCRIPTION (continued)

(6) Exempts an offender currently on the registry, or who would otherwise be required to register, for being adjudicated for the offenses of felonious restraint of a nonsexual nature and kidnaping, when the victim was a child and he or she was the parent or guardian and nonsexual child abuse from registering as a sexual offender (Section 589.400.6);

(7) Exempts an offender from registering as a sexual offender, upon petition of the court of jurisdiction, for any offense involving sexual conduct where no force or threat of force was directed toward the victim or any individual involved and the victim was an adult, unless the adult victim was under the custodial authority of the offender; any offense involving sexual conduct where the victim was at least 14 years of age and the offender was not more than four years older than the victim at the time of the offense; or any offender currently required to register for the sexual offenses of sexual misconduct in the second and third degree, promoting obscenity in the first and second degree, furnishing pornographic materials to minors, public display of explicit sexual material, coercing acceptance of obscene material, or unlawful sex with an animal (Section 589.400.7);

(8) Allows an offender currently on the sexual offender registry for having been adjudicated of a tier I, II, or juvenile III offense or other comparable offense listed in these provisions to file a petition for removal from the registry (Section 589.400.8);

(9) Specifies that any nonresident worker, including a volunteer, intern, or nonresident student must register for the duration of his or her employment, volunteering, internship, or attendance at any school of higher education, whether public or private, including any secondary, trade, or professional school or institution of higher education on a full or part-time basis, unless removed from the registry upon petition to the court. He or she must report in person to the sheriff in the area of the state he or she works or attends school. Any registered offender from another state who resides in the state more than 7 days in a 12-month period must register for the duration of his or her temporary residency, unless removed from the registry upon petition to the court (Sections 589.400.9 and 589.414.8);

(10) Allows a sexual offender on the registry to file a petition in the circuit court of the county in which the offense was adjudicated to have his or her name removed from the registry. If required to register in this state based on a sexual offense committed in another jurisdiction, the offender must file his or her petition for removal in the jurisdiction where the case was adjudicated, and if granted, the judgment can be registered in the state by sending an authenticated copy of the removal order along with specified information to the court in the county the offender is required to register (Sections 589.401.1 and 589.401.2);

FISCAL DESCRIPTION (continued)

(11) Prohibits an offender required to register as a tier III offender from filing a petition for removal unless he or she is required to register based on a juvenile adjudication (Section 589.401.3);

(12) Specifies that a petition for removal will be dismissed if specified time periods have not elapsed since the date the offender was required to register for his or her most recent offense. For a tier I offense, the time period is 10 years and for a tier II or tier III offense adjudicated as a juvenile, the time period is 25 years (Section 589.401.4);

(13) Specifies the information the petition for removal must include to not be dismissed by the court, including information about the petitioner, offense requiring registration, the court case in which the sex offense was adjudicated, petitioner's fingerprints, and if the petitioner has been adjudicated or has charges pending for the offense of failure to register (Section 589.401.5);

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Public Safety
Department of Mental Health
Department of Corrections
Office of the State Courts Administrator
Department of Social Services
Office of Prosecution Services
Office of the State Public Defender
Boone County Sheriff Department

Not Responding:

Cole County Sheriff's Department
Jackson County Sheriff's Department
Platte County Sheriff's Department



Ross Strope

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Acting Director
February 25, 2013

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